



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No. 8100 of 2022
WMP.Nos.8081 & 8083 of 2022

Pondicherry Institute of Medical Sciences
Rep. by its Chairman M.Phillip
Kalapet, Puducherry-605 014.

...Petitioner

Vs.

1.Government of Puducherry
Rep. by its Under Secretary (Health)
Health Department,
Chief Secretariat Puducherry.

2.Centralized Admission Committee
Rep. by Coordinator (Admission)
Government of Puducherry, Pondicherry
Engineering College Campus
Puducherry-605 014.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorarified mandamus calling for the records of the 1st respondent in letter dated 28.03.2022 in Ref. No.27209/ Health / H5/ 2021-22/ 168 and the consequential Revised Schedule and Important Instructions for MBBS Mop-up Counselling dated 29.03.2022 in Ref. CENTAC/UG/Admin/ 2021-22 issued by the 2nd respondent quash the same and consequently direct the 2nd respondent to conduct the mop-up round of Counselling for the Management quota seats in MBBS / PG medical seats available in the petitioner Institution by allowing candidates on All India basis to participate.

For Petitioner : Mr.ARL Sundaresan
Senior Counsel for
Mr.Abishek Jenasenan

For Respondents: Mr.J.Kumaran,
Additional Government Pleader
assisted by
Mr.A.Alexander,
Government Advocate



O R D E R

The petitioner is a minority institution established in the Union Territory of Puducherry. It was established by the Madras Medical Mission in the year 2000 as a Religious (Christian) Minority Institution and has been conducting courses for under graduate (UG) as well as post graduate (PG) in various clinical and non-clinical specialties.

2. It is affiliated to the Pondicherry University and in respect of academic year (AY) 2021-22 had released a prospectus stipulating various procedures and parameters applicable for admission to undergraduate professional courses (NEET based) in the Union Territory of Puducherry for M.B.B.S., B.D.S., B.A.M.S. & B.V.Sc. & A.H. in all quotas.

3. We are concerned in this matter with the reservation and allocation of seats in line with the avowed reservation policy as reflected in the prospectus and hence, I extract below the eligibility criteria in this regard for both UG and PG, as contained in pages 9 and 6 of the respective prospectuses.

4. For U.G, the stipulation is as follows:

4. (D)-RESERVATION

(i) As per U.T. Govt. norms for all Government quota seats, only Candidates who are resident of the UT of Puducherry are eligible.

Minority Quota Seats in Private Medical / Dental Colleges

(ii) For Minority Quota seats in Minority Medical / Dental Colleges candidates who are residents of the U.T. of Puducherry and belonging to respective minorities are only eligible, i.e., for the minority quota seats in PIMS, candidates who are resident of U.T. of Puducherry and belonging to Christian religious minority alone are eligible. For the minority quota seats in SVMC&RI candidates who are resident of the U.T. of Puducherry and belonging to Telugu linguistic minority alone are eligible. The details of these seats and the fee structure will be notified by the Health Department. You are advised to check the CENTAC website for updates on these.

(iii) U.T. of Puducherry candidates claiming seats under Christian Minority Quota should produce any valid documentary proof like Transfer Certificate or



similar document to prove his/her religion is CHRISTIANITY.

(iv) U.T. of Puducherry candidates claiming seats under Telugu Minority Quota should produce any valid documentary proof like Transfer Certificate or School admission certificate to prove his/her mother tongue is TELUGU.

(v) Conversion of Minority Quota seats into General Management Quota seats: In case these minority quota seats are not filled in the TWO rounds of Counselling, then these unfilled seats will be converted to general management quota seats and filled on. All India basis.

(vi) For Management Quota seats in Private Colleges candidates are eligible on All India basis without any restriction regarding residence in the U.T. of Puducherry.

5. For P.G, the eligibility qualification is as follows:

ELIGIBILITY CRITERIA

Students should be citizens of India

Students seeking admission to PG Medical Courses should have qualified in the NEET-PG 2021 conducted by National Board of Examinations.

Students should have passed their MBBS Examination of any recognized University and completed the CRRI period on or before 31.03.2021.

For Government Seats and Govt. Quota Seats in Private Medical Colleges

Apart from the above eligibility criteria, students who are claiming Government Quota seats should be residents of U.T. of Puducherry and they have to furnish residence certificate issued by competent authority. If the residence certificate is not produced, then they will not be eligible for Government Quota.

6. Thus, the premise upon which the institutions as well as the aspirants proceed is that minority quota would be taken note of for the allocation of seats, up to the stage of mop-up. Thereafter, when one arrives at the stage of mop-up and stray vacancy counselling, the minority quota will stand converted into general seats and would be open on all India basis without any restriction regarding residence in the Union Territory of



Puducherry.

7. As far as the PG course is concerned, the requirement for residence in UT of Puducherry was restricted only to Government Quota seats leading to the clear mandate that aspirants to seats in management quota would not be required to furnish proof of residence from the first stage of counselling onwards.

8. Notification dated 22.03.2022 also sets out the same mode of counselling as prescribed under the prospectus. Thus, both the Institute and the aspirants have been led to believe that it is the system of reservation that has been set out under the prospectus that would be followed till 22.03.2022.

9. The date of mop-up counselling is stated to be 28.03.2022. While this is so and as a bolt from the blue, the respondents have issued the impugned letter on 28.03.2022, which is the same date as the counselling itself, altering the methodology of allocation of seats and stating that 'seats should be allotted on first priority basis to the candidates from Puducherry domicile, failing which seat remaining vacant be filled on all India basis'.

10. There is a marked change in in the methodology for reservation and allocation of seats. Where, previously, the relevance of residence/domicile in Puducherry was restricted to the first two rounds of counselling in UG courses and none at all as far as PG courses is concerned, with the issuance of the impugned communication, the weightage accorded to 'residence' in the Union Territory of Puducherry has increased, in my considered view, arbitrarily and at the eleventh hour.

11. Mr.Kumaran, who has obtained instructions expeditiously, bearing in mind the urgency of the matter, relies on a Government Order in G.O.Ms. No.36, dated 25.08.2017 issued in relation to minority institutions in Puducherry. The petitioner is a religious minority and Shri Venkateshwara Medical College Hospital and Research Institute, Puducherry, is a linguistic minority. As per the aforesaid G.O., 50% of their approved intake would have to be allotted to the students of religious and linguistic minority, even for the mop up counselling for the M.B.B.S. Courses.

12. However and admittedly, this basis of reservation and allocation has not found favour of continuance for the subsequent years and for academic year 2018 onwards the Union Territory has admittedly lapsed back to the erstwhile system of reservation and allocation which is what is prescribed in the prospectus for the present academic year as well.



13. This Court does not for a moment intend to examine matters of policy except if it is shown to be perverse. It is the prerogative of the Union Territory to take a particular stand with regard to matters of reservation and policy and well within their domain to do so, however, in a manner which will not impact the working of the Institution and planning of the candidates themselves.

14. Medical aspirants engage in substantial analysis of available courses, seats and institutions to equip themselves to deal with the ruthless competition today. For the Government to change the rules of the game at the eleventh hour, would, in my considered view, be unacceptable and arbitrary.

15. Mr.Kumaran relies on a judgment of the Hon'ble Supreme Court in the case of Rajiv Kapoor Vs. State of Haryana ((2000) AIR SC 1476). In that judgment the Supreme Court was concerned with a challenge to an order of the Division Bench of the Punjab and Haryana High Court. The Division Bench set aside the orders of the Government that prescribed a certain methodology of marking of the candidate to arrive at a determination as to the merit or otherwise of the particular candidate.

16. The Division Bench set aside the order of the High Court proceeding on the basis that the prescription of the prospectus should not be deviated from by the institutions. The decision was reversed by the Hon'ble Supreme Court on the ground that there was sufficient flexibility available in the prospectus itself for the merit of the student, including the marking system, to be taken note of. In this regard, they refer to earlier Government Orders providing for a marking methodology and in that context state that the subsequent orders of the Government providing for a particular methodology of marking did not deviate from the prospectus itself.

17. This case does not advance the case of the respondent as the facts are entirely different and distinct. In this case, the Government has, till the date of mop up counseling, led all stake holders to believe that a particular policy of reservation and seat allocation will be followed. There is absolutely no basis for an arbitrary change at the last moment and no justification whatsoever is put forth in this regard. The impugned communication bringing about this last minute change in the policy of reservation and allocation is thus quashed.

18. The policy as stipulated by the prospectus shall be followed for the present year. This is also for the reason that the policy as per prospectus has been followed till AY 2016-17 and from AY 2018-19 onwards till the present year. It is for the respondent to take a considered view in regard to this matter



for the forthcoming years, needless to say, in accordance with law and a timely fashion.

19. This writ petition is allowed. Connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

ska/vs

To

1.The Under Secretary (Health)
Government of Puducherry
Health Department,
Chief Secretariat Puducherry.

2.The Coordinator (Admission)
Centralized Admission Committee
Government of Puducherry, Pondicherry
Engineering College Campus
Puducherry-605 014.

+2cc to Mr.Abishek Jenasanen, Advocate, S.R.No.22146

W.P.No. 8100 of 2022
WMP.Nos.8081 & 8083 of 2022

KJ(CO)
SB(05/05/2022)